

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

Endangered Species Bulletins and Technical
Reports (USFWS)

US Fish & Wildlife Service

6-2-1970

Conservation of Endangered Species and Other Fish and Wildlife

Follow this and additional works at: <https://digitalcommons.unl.edu/endangeredspeciesbull>



Part of the [Biodiversity Commons](#)

"Conservation of Endangered Species and Other Fish and Wildlife" (1970). *Endangered Species Bulletins and Technical Reports (USFWS)*. 54.

<https://digitalcommons.unl.edu/endangeredspeciesbull/54>

This Article is brought to you for free and open access by the US Fish & Wildlife Service at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Endangered Species Bulletins and Technical Reports (USFWS) by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

SUBCHAPTER B—HUNTING AND POSSESSION OF WILDLIFE

PART 17—CONSERVATION OF ENDANGERED SPECIES AND OTHER FISH OR WILDLIFE

By notice of proposed rule making published in the FEDERAL REGISTER on April 10, 1970 (35 F.R. 5961), and of April 14, 1970 (35 F.R. 6069), notice was given that it was proposed to add a new Part 17 to Title 50, CFR.

The proposal published on April 10, 1970 (35 F.R. 5961), listed ports of entry through which all fish and wildlife (with certain exceptions) must enter the United States, and also announced a public hearing which was held in May 11, 1970. Written comments, suggestions, and objections were also invited and received.

The proposal published on April 14, 1970 (35 F.R. 6069) set forth regulations proposed for adoption and invited written comments, suggestions, and objections.

Numerous comments were received regarding both FEDERAL REGISTER proposals.

The Department of the Interior deems it in the public interest that these regulations shall become effective on June 3, 1970, which is the effective date of the Endangered Species Conservation Act of 1969 (83 Stat. 275). However, for the convenience of the public, and to insure the orderly implementation of these regulations, §§ 17.3 *Importation at designated ports* and 17.4 *Importation of fish or wildlife—inspection and documentation* shall not become effective until August 3, 1970.

Consideration having been given to all relevant statements and matters presented, it has been determined to add a new Part 17 to Title 50 CFR, as follows:

Sec.	
17.1	Purpose.
17.2	Definitions.
17.3	Importation at designated ports.
17.4	Importation of fish or wildlife—inspection and documentation.
17.5	Importation of fish or wildlife—proof of compliance.
17.6	Importation of fish or wildlife—marking.
17.7	State markings.
17.8	Export permits.
17.9	Marking of packages or containers.
17.10	Importation of endangered species—general restrictions.
17.11	Endangered species list.
17.12	Importation of endangered species—exceptions.
17.13	Hearings.
17.14	Holding, return, and disposal of seized property.
17.15	Forfeiture of seized property.
17.16	Other laws applicable.
Appendix A—	Endangered Species List.
Appendix B—	Designated Ports and Exceptions thereto.
Appendix C—	Regional Directors.

AUTHORITY: The provisions of this Part 17 issued under Public Law 91-135; 83 Stat. 275.

§ 17.1 Purpose.

The regulations in this part govern the importation and transportation of fish and wildlife, including endangered fish and wildlife. They implement the Endangered Species Conservation Act of 1969 (16 U.S.C. 668cc), the Black Bass Act, as amended (16 U.S.C. 851 et seq.), and the Lacey Act, as amended (18 U.S.C. 43, and 44).

§ 17.2 Definitions.

The following definitions shall apply in this part, unless otherwise specified:

(a) "The Act" shall mean Public Law 91-135, 83 Stat. 275;

(b) "The Secretary" shall mean the Secretary of the Interior;

(c) "The Director" shall mean the Director of the Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior;

(d) "Person" shall mean any individual, firm, corporation, association, or partnership;

(e) "Fish" shall mean any finfish or any part, products, egg, or offspring thereof, or the dead body or parts thereof whether or not included in a manufactured product;

(f) "Wildlife" shall mean any wild mammal, wild bird, amphibian, reptile, mollusk, or crustacean, or any part, products, egg, or offspring thereof, or the dead body or parts thereof whether or not included in a manufactured product;

(g) "Endangered Species List" shall mean the list of species or subspecies of fish and wildlife found in other countries that are threatened with worldwide extinction which is contained in Appendix A to this Part 17;

(h) "Native Endangered Species List" shall mean the list of species or subspecies of fish and wildlife native to the United States that are threatened with extinction, and which is published from time to time in the FEDERAL REGISTER.

(i) "Taken" shall mean captured, killed, collected, or otherwise removed from the wild in the country of origin;

(j) Except insofar as such items include any species or subspecies which appears on the Endangered Species List, "shellfish or fishery products imported for commercial purposes" shall mean the following items as further defined in the "Tariff Schedules of the United States Annotated," United States Tariff Commission TC Publication 304, under the TSUS numbers shown in parentheses below:

- (1) Frogs (TSUS No. 106.60).
- (2) Frog meat (TSUS No. 107.65).
- (3) Fish, fresh, chilled, or frozen (TSUS Nos. 110.10-110.70)—trout and salmon to conform to 50 CFR 13.7 and 13.12.
- (4) Fish, dried, salted, pickled, smoked or kippered (TSUS Nos. 111.10-111.92).
- (5) Fish in airtight containers (TSUS Nos. 112.01-112.94).
- (6) Other fish products (TSUS Nos. 113.01-113.60).

(7) Shellfish (TSUS Nos. 114.01-114.55).

(8) Marine-animal oils (TSUS Nos. 177.02-177.40).

(9) Sod oil (TSUS No. 178.05).

(10) Products of American fisheries (TSUS Nos. 180.00-180.20).

(11) Edible preparations (TSUS Nos. 182.05, 182.11, 182.48, 182.50).

(12) Animal feeds (TSUS Nos. 184.54, 184.55).

(k) "Seized property" shall mean anything seized pursuant to sections 4 or 7 of the Act or 16 U.S.C. 851 et seq.;

(l) "Permit" shall include any letter from the Department of the Interior so designated and signed by a properly authorized officer;

(m) "Wild" shall refer to all creatures living in the wild state; or to all creatures that, whether raised in captivity or not, are normally found in the wild state;

(n) "Country of origin" shall mean the country where the fish or wildlife was taken from the wild, or the country of nata. origin of the fish or wildlife;

(o) "State" shall mean the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam;

(p) "The United States" shall include the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam;

§ 17.3 Importation at designated ports.

(a) All fish and wildlife, which is intended for importation into the United States except shellfish or fishery products imported for commercial purposes, must enter the United States at designated receiving stations at the customs ports set forth in Appendix B to this Part 17.

(b) Any fish or wildlife, except shellfish or fishery products imported for commercial purposes, which enters the United States at a place other than a designated port may not be imported at that place, but must be moved as quickly as possible under customs bond, to a designated port, unless the exceptions set forth in Appendix B to this part apply.

(c) Nothing in this part shall be construed to allow the entry or importation of any fish or wildlife: (1) Coming within the meaning of the regulations of the Department of Agriculture regarding the importation of certain animals and poultry and certain animal and poultry products, appearing at 9 CFR 92.1 et seq., except at the ports designated in such regulations; (2) regulated in § 13.1 of this chapter et seq., regarding the importation of injurious wildlife, except in accordance with such regulations.

§ 17.4 Importation of fish or wildlife—inspection and documentation.

(a) All fish and wildlife which is intended to be imported into the United States or into any foreign trade zone, is subject to inspection and clearance for such importation, by authorized personnel of the Bureau of Sport Fisheries and Wildlife, or by any customs officer. Such inspection may include examination of

the fish or wildlife, the package or other container in which such fish or wildlife was transported, and the documents accompanying the shipment.

(b) A properly executed Declaration for the Importation of Fish or Wildlife (Form 3-177) must be filed with the District Director of Customs at the port of entry where actual customs inspection for clearance or release occurs, for all fish or wildlife imported into the United States. The Form 3-177 shall show, for each species or subspecies imported, the common and scientific names, number, country of origin, whether or not on the Endangered Species List, whether or not subject to laws or regulations in any foreign country regarding its taking, transportation, or sale. A copy of the invoice and copies of documents required pursuant to paragraph (c) of this section must be attached to the Form 3-177.

(c) In any case where fish or wildlife is subject to laws or regulations of any foreign country regarding its taking, transportation, or sale, or in any case of importation of any primates, or Crocodylia (alligators and crocodiles); or wildlife of the families Felidae (cats), Rhinocerotidae (rhinoceros), Cheloniidae (sea turtles), Falconidae (falcons and caracaras), Accipitridae (hawks and eagles), or Psittacidae (parrots and parakeets), the following documents must accompany the shipment:

(1) An export permit or other document from an appropriate government official, in English, or the original document and a certified translation thereof, from each country where the fish or wildlife is subject to regulations regarding its taking, transportation, or sale, which shows that such fish or wildlife was lawfully taken, transported or sold, or

(2) A consular certificate from an American Consul which shows that an appropriate government official has certified in the Consul the information required in subparagraph (2) of this paragraph.

Copies of any such documents must be attached to the Form 3-177 referred to in paragraph (b) of this section.

(d) The documentation requirements of paragraphs (b) and (c) of this section shall not apply to shellfish and fishery products imported for commercial purposes, except members of the family Cheloniidae (sea turtles); to scientific specimens imported by persons approved pursuant to the provisions of Appendix B(2)(f) to this part, and which are clearly marked "Preserved Scientific Specimens—No Commercial Value—No Endangered Species;" to any case in which a Declaration for Free Entry of Animals or Birds Killed by United States Residents (Customs Form 3315) has been filed; or to the importation of fish caught by sport fishermen in Canada under a valid Canadian fishing license.

(e) The documentation required in paragraphs (b) and (c) of this section is in addition to any documentation which may be required by the Bureau of the Customs, including a consular certificate required by 19 U.S.C. 1527, or any

statement required in Appendix B to this part for the entry of fish or wildlife at nondesignated ports.

(f) In any instance where authorized personnel of the Bureau of Sport Fisheries and Wildlife are not available to inspect any shipment of fish or wildlife within a reasonable time at a designated port or a port which is being utilized pursuant to the exceptions set forth in Appendix B to this part, any customs officer may clear and release such fish or wildlife. In such cases, any non-Customs post-clearance enforcement measures shall proceed under laws and regulations administered by the Department of the Interior.

§ 17.5 Importation of fish or wildlife—proof of compliance.

In any case where there is a reasonable doubt as to the identity of any fish or wildlife, or as to whether the importation in question is in compliance with the requirements of this part, the burden shall be on the importer to prove the identity of the fish or wildlife or to prove compliance with the regulations. Until such time as the importer can show acceptable proof of compliance, the Director, or the Supervisory Customs Inspector, may refuse to clear the shipment for importation, or may seize the shipment.

§ 17.6 Importation of fish or wildlife—marking.

(a) Any fish or wildlife or any offspring, or product manufactured from such fish or wildlife, which is on the Endangered Species List and is imported into the United States under permit must have suitable identification from the Department of the Interior. Such identification may be obtained at any designated port of entry or from the Regional Director of the Bureau of Sport Fisheries and Wildlife.

(b) Any fish or wildlife on the Endangered Species List which originates outside the United States is subject to seizure and forfeiture if found in the possession of any person within the United States without the proper marking or other identification, unless such person can show by appropriate documentation that the fish or wildlife came into his possession prior to the effective date of the regulations in this part.

§ 17.7 State markings.

If any fish or wildlife which originates in the United States and which is required to be marked or otherwise identified by the laws or regulations of the State in which it originated, or any fish and wildlife on the Native Endangered Species List, is found without such marking or other identification, it is subject to seizure and forfeiture.

§ 17.8 Export permits.

(a) No fish or wildlife which appears on the Native Endangered Species List, may be exported from the United States unless accompanied by a special export permit issued by the Department of the Interior.

(b) Requests for such permits must be dated and in writing, and sent to the appropriate Regional Director of the Bu-

reau of Sport Fisheries and Wildlife (see Appendix C to this part) at least 7 days prior to export. The request shall contain the following information:

(1) Name and address of the applicant;

(2) Designation of the items to be exported, including species or subspecies, number, weight, method of shipment, and a description, such as "tanned hides;"

(3) Evidence, in the form of certificates, tags or tag serial numbers, or other documents from the State in which the fish or wildlife originated showing that such fish or wildlife was lawfully taken, transported, or sold;

(4) In those cases where no certificate, tag or tag serial number or other document is available from the State in which the fish or wildlife originated, the exporter may include the following certification:

I hereby certify that the State of (-----) from which the fish or wildlife named hereon originated, does not, to the best of my knowledge issue certificates, tags, or other documents showing that such fish or wildlife was lawfully taken, transported, or sold. I also certify that such fish or wildlife was lawfully taken, transported, or sold in the State from which it originated. I am aware that a false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

(c) The provisions of this section do not apply to the export of migratory birds for which export permits may be obtained pursuant to § 16.9 of this chapter.

§ 17.9 Marking of packages or containers.

(a) Any package or other container holding fish or wildlife which is shipped, transported, carried, brought, or conveyed in interstate or foreign commerce must be marked, labeled, or tagged so as to plainly indicate the name and address of the shipper and the consignee, and, except for interstate shipments of furs, hides, and skins, the number and kind of the contents. This requirement shall not apply to packages or other containers holding shellfish and fishery products imported for commercial purposes, or mink, chinchilla, silver fox, blue fox, rabbit, or nutria for which a certification is inserted on the Form 3-177 required by § 17.4(b) in the case of importation, or for which a separate signed certification accompanies the shipping documents in the case of interstate movement or exportation, to the effect that the animal was bred and born in captivity for commercial purposes.

(b) (1) In any case where the marking or other identification of the package or other container under this section indicating in any way the contents thereof would create a significant possibility of theft of the package or its contents, the Director may, upon request of the owner thereof or his agent provide an identification symbol to be used in lieu of such marking, labeling, or tagging.

(2) Applications for use of an identification symbol must be dated and in writing, and should be submitted to the Director, Bureau of Sport Fisheries and

Wildlife, United States Department of the Interior, Washington, D.C. 20240. The application must contain the following:

- (i) Name and address of the applicant;
- (ii) Designation of the item or items to be imported, transported, etc., including species or subspecies, method(s) of shipment, and description, such as "tanned hides;"
- (iii) Estimated frequency and place(s) of importation;
- (iv) A statement of the reasons why marking, labeling, or tagging of a package to be imported, transported, etc., would create a significant possibility of theft of the package or its contents, including appropriate statistics, affidavits, or other documents;
- (v) A suggested mark or commercial symbol to be used by the applicant in identifying shipments of fish or wildlife;
- (vi) A certification in the following language:

I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the marking and labeling requirements of 18 U.S.C. 44 and regulations promulgated thereunder, and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

- (vii) The signature of the applicant.
- (3) Upon approval of an application for the use of an identifying symbol, the Director shall assign such a symbol. This symbol must be shown on every package or container used by the applicant for the shipment, transportation, carriage, bringing, or conveyance of fish or wildlife in interstate or foreign commerce. The symbol must also appear on all shipping documents, and on any documents required by this part to accompany the fish or wildlife.
- (4) The applicant shall, from the date of notification of the symbol, maintain complete and accurate records of all fish or wildlife which were shipped, transported, carried, brought, or conveyed in interstate or foreign commerce and which were identified by means of such symbol. The records shall include the number, species or subspecies, description of the package or container, method or shipment, time and place of shipment, and general description of the items. Such records shall be open to inspection, auditing, or copying by any authorized employee of the Bureau of Sport Fisheries and Wildlife at any time during regular business hours.

§ 17.10 Importation of endangered species—general restrictions.

Except as provided elsewhere in this part, no person may import from any foreign country into the United States any species or subspecies of fish or wildlife which appears on the Endangered Species List. For the purposes of this section, importation shall include entry into a foreign trade zone, or any transit of or transshipment through any portion of the United States.

§ 17.11 Endangered species list.

- (a) The species or subspecies of fish or wildlife shown on the Endangered Species List are deemed to be threatened with worldwide extinction. The List may be revised from time to time as additional data becomes available which shows, to the Secretary's satisfaction, that a species or subspecies should be added to or removed from the List.
- (b) The Bureau of Sport Fisheries and Wildlife shall receive and maintain data regarding endangered species and subspecies of fish and wildlife. At least once every 5 years, said Bureau shall conduct a thorough review of the Endangered Species List. Any proposed revisions to the List shall be published in the FEDERAL REGISTER, with an opportunity for interested persons to submit written comments and suggestions.
- (c) (1) Any interested person may at any time submit a request for a review of any particular listed species or subspecies. Such requests must be dated and in writing, and should be submitted to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240. In order to be considered, requests must show in full the following information:

- (i) Name and address of the person making the request;
- (ii) Association, organization, or business, if any, represented by the person making the request;
- (iii) Reasons why the person making the request, or the persons he represents, should be considered to be an "interested person;"
- (iv) Designation of the particular species or subspecies in question;
- (v) Narrative explanation of the request for review and justification for a change in the status of the species or subspecies in question;
- (vi) Complete supporting data for the request;
- (vii) Signature of the person making the request.

(2) If it is determined that the request has presented substantial evidence warranting a review, a finding to that effect shall be published in the FEDERAL REGISTER. Such finding shall give notice and opportunity to all other interested persons to participate in the review of the particular species or subspecies, by submission of written data.

§ 17.12 Importation of endangered species—exceptions.

(a) Commercial permit:

(1) In order to avoid undue economic hardship, any person importing any species or subspecies shown on the Endangered Species List, for commercial purposes, under any contract entered into prior to the effective date of the FEDERAL REGISTER notice placing such species or subspecies on the Endangered Species List, may apply for a permit allowing the importation of such fish or wildlife. The application shall be dated and in writing and submitted to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of

the Interior, Washington, D.C. 20240, and must contain the following:

- (i) Name and address of the applicant;
- (ii) Designation of the item or items to be imported including species or subspecies, number, weight, method of shipment, and description, such as "tanned hides;"
- (iii) Purpose of the importation;
- (iv) Copy of the contract under which such fish or wildlife is to be imported, showing the name and address of the seller or consignor, date of the contract, contract price, number and weight, and description of the item;
- (v) If live fish or wildlife are involved, include a detailed description of the type, size, and construction of the container, arrangements for feeding, watering and otherwise caring for the fish or wildlife in transit, and arrangements for caring for the fish or wildlife on entry into the United States;
- (vi) Copies of contracts for the importation of fish or wildlife of the same or similar species or subspecies for the calendar year immediately preceding the date of the contract in question;
- (vii) A statement of the reasons why failure to fulfill the contract in question would lead to economic hardship, with all supporting documents;
- (viii) A certification in the following language:

I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275), and regulations promulgated thereunder, and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

- (ix) The signature of the applicant.
- (2) Any permits granted pursuant hereto will be strictly limited to allow importation only as necessary to avoid undue economic hardship, and in any case shall not be valid for more than 1 year from the effective date of the FEDERAL REGISTER notice placing such species or subspecies on the Endangered Species List.
- (3) If a permit is denied, the applicant shall have 20 days after the date of the letter containing notice of such denial in which to request a full hearing regarding the application for such permit.

(b) Zoological, educational, scientific, or preservation permit:

(1) Any person importing any species or subspecies on the Endangered Species List for zoological, educational, and scientific purposes, or for the propagation of such fish or wildlife in captivity for preservation purposes, may apply for a permit allowing the importation of such fish or wildlife. The application shall be dated and in writing, and submitted to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240. It shall contain the following information:

(i) The name and address of the applicant;

(ii) The number of specimens and the common and scientific names (genus and species) of each species or subspecies of fish or wildlife proposed to be imported;

(iii) Complete statement of the purpose of such importation;

(iv) If live fish or wildlife are involved, include a detailed description of the type, size, and construction of the container, arrangements for feeding, watering, and otherwise caring for the fish or wildlife in transit, and arrangements for caring for the fish or wildlife on entry into the United States;

(v) The address and a complete description of the facilities where such fish or wildlife will be kept;

(vi) A statement, if applicable, of the applicant's qualifications and previous experience in caring for and handling captive live wildlife;

(vii) A copy of the contract or other arrangements under which such fish or wildlife is to be imported, showing the name and address of the seller or consignor, date of the contract, contract price, number and weight (if available), and description of the items;

(viii) A certification in the following language:

I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275); and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001.

(ix) The signature of the applicant.

(2) Permittees shall comply with all terms, conditions, or restrictions prescribed in the permit.

(c) Permits issued pursuant to this part shall not be construed to authorize the importation or other acquisition, possession, transportation, or disposal of fish or wildlife contrary to any applicable Federal or State laws or regulations and do not relieve or eliminate responsibility for complying with any applicable health, quarantine, agriculture, customs permit, or other requirements imposed by the laws or regulations of the other duly authorized Federal and State agencies.

§ 17.13 Hearings.

(a) Whenever opportunity for a hearing is required by § 17.12 or sections 4 or 7 of the Act, reasonable notice shall be given by personal service or by registered or certified mail, return receipt requested, to the affected person. This notice shall advise such person of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action. The notice will either (1) fix a date not less than 20 days after the date of such notice within which the person receiving the notice may request that the

matter be scheduled for a hearing, or (2) advise the person receiving the notice that the matter has been set down for hearing at a stated time and place.

(b) The time and place fixed shall be reasonable and shall be subject to change for cause. The recipient of a notice of hearing may waive a hearing and submit written information and argument for the record. The failure of the recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and consent to the making of a decision on the basis of such information as is available.

(c) All hearings shall be presided over by a hearing examiner appointed under 5 U.S.C. 3105. Immediately upon the initiation of any proceeding, an examiner will be assigned to the case and the parties notified of the assignment. Thereafter, all motions, applications, and other papers shall be filed with the examiner.

(d) In all proceedings under this section, the respondent and the Department of the Interior shall have the right to be represented by counsel.

(e) (1) The hearing shall be conducted in conformity with section 556 of title 5 U.S.C., and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices subsequent to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments, and briefs, requests for findings, and other related matters. Both the Department of the Interior and the respondent shall be entitled to introduce evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonable and necessary by the examiner conducting the hearing. The hearing examiner may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues.

(3) Hearings shall be recorded stenographically by an official reporter. The transcript of testimony and exhibits together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Copies of the transcript may be obtained by any party from the official reporter upon payment of the fees fixed therefor.

(f) Promptly after conclusion of the hearing, the examiner shall render a decision. The decision shall be in writing and shall include a statement of (1) findings and conclusions and the reasons or

basis therefor, on the material issues of fact, law, expertise, or discretion presented on the record and (2) the appropriate rulings, order, or denial thereof with the effective date. The examiner's decision shall be the final and binding administrative determination. A copy of the decision shall be given to each party.

(g) Whenever a hearing is waived pursuant to paragraph (a) of this section, a decision shall be made by the hearing examiner on the record and a copy of such decision shall be given in writing to the affected persons.

§ 17.14 Holding, return, and disposal of seized property.

(a) Any authorized employee or officer of the Customs who has seized any property shall deliver such seized property to the appropriate Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C to this part) or his designee, who shall either hold such seized property, or arrange for the proper handling and care of such seized property.

(b) Any arrangement for the handling and care of seized property shall be in writing and shall state the compensation to be paid. The Regional Director of the Bureau of Sport Fisheries and Wildlife, or his designee, shall attempt to notify the owner or consignee immediately by telephone, but in any case shall, within 48 hours of the receipt of the seized property, mail notice thereof by registered or certified mail, return receipt requested, to the owner or consignee. Such notice shall describe the seized property, including its declared value, and shall state the time, place, and reason for the seizure. Such notice shall also give the name and telephone number of a person within the Regional Director's Office who may be contacted regarding such seized property.

(c) The Regional Director of the Bureau of Sport Fisheries and Wildlife may, upon written request of the owner or consignee, accept a bond or other satisfactory surety in place of the seized property. Such bond shall be in the full penal amount of \$5,000 or equal to the value of the seized property, whichever is less, and shall only be allowed where the Regional Director of the Bureau of Sport Fisheries and Wildlife reasonably believes that the owner or consignee intends to maintain possession or control of the seized property until all proceedings regarding the seized property are completed, or where the seized property is of such a nature that its release will not hamper the aims of the Act.

(d) If, at the conclusion of the appropriate proceedings, the seized property is to be returned to the owner or consignee, the Regional Director of the Bureau of Sport Fisheries and Wildlife shall issue a letter authorizing the return of seized property to the owner or consignee. This letter shall be sent by registered mail, return receipt requested,

APPENDIX A

UNITED STATES' LIST OF ENDANGERED FOREIGN FISH AND WILDLIFE

The list of endangered foreign fish and wildlife has been compiled from data supplied by international conservation organizations, foreign fish and wildlife agencies, individual scientists and trade sources. If a candidate species is not listed it may be because it is not endangered throughout its range or because there is insufficient evidence to warrant its inclusion on the list at this time. The list is under continual review. Factual data are welcome and should be submitted. The "Where Found" column is a general guide to the native countries or regions where the named animals are found. It is not intended to be definitive.

and shall identify the owner or consignee, the seized property, and, if appropriate, the bailee of the seized property. It shall also provide that upon presentation of the letter and proper identification, the seized property is authorized to be released, provided it is properly marked in accordance with applicable State or Federal requirements. All charges regarding the storage, care, or handling of the seized property accruing within 5 days after the date of the return receipt shall be for the account of the owner or consignee.

(e) Disposal of seized property: If, at the conclusion of the appropriate proceedings, the seized property is to be forfeited to the United States, the Regional Director of the Bureau of Sport Fisheries and Wildlife shall arrange for its disposal, provided that any forfeited property shall be held by the Regional Director of the Bureau of Sport Fisheries and Wildlife until the conclusion of all court proceedings connected therewith. All charges which have accrued regarding the storage, care, or handling of the seized property shall be for the account of the former owner or consignee.

§ 17.15 Forfeiture of seized property.

(a) Any fish or wildlife, product, property or item which has been seized pursuant to the Act may be proceeded against in any court of competent jurisdiction for forfeiture to the Secretary for disposition by him.

(b) If such proceeding is not instituted within 30 days following the disposition of proceedings in accordance with these regulations involving the assessment of a civil penalty, the seized wildlife, product, property, or item shall be returned to the owner or consignee.

(c) Upon conviction for a criminal penalty pursuant to the Act, any seized wildlife, or product thereof, shall be forfeited to the Secretary for disposition by him as he may deem appropriate. If no conviction results from any such alleged violation, the Secretary may commence civil penalty proceedings in accordance with the regulations in this part. If a civil penalty proceeding is not instituted within 30 days following the final disposition of the criminal case involving such violation, the seized property shall be returned to the owner or consignee.

§ 17.16 Other laws applicable.

Nothing in this part, nor any permit, exception, or permission issued hereunder, shall be construed to relieve any person from any provision of any other laws, rules, or regulations of the States or the United States.

Effective date. These regulations shall be effective as of June 3, 1970, except that §§ 17.3 and 17.4 shall not be effective until August 3, 1970.

FRED J. RUSSELL,
Acting Secretary of the Interior.

MAY 25, 1970.

Mammals

Common name	Scientific name	Where found
Thylacine	<i>Thylacynus cynocephalus</i>	Tasmania.
Cuban solenodon	<i>Atopogale cubana</i>	Cuba.
Haitian solenodon	<i>Solenodon paradoxus</i>	Dominican Republic.
Lemurs, all species	<i>Lemuridae</i> , all members of the genera <i>Lemur</i> , <i>Haplorhina</i> , <i>Lepidolemur</i> , <i>Chirogaleus</i> , <i>Microcebus</i> , <i>Phaner</i> .	Madagascar and Comoro Islands.
Indri, Sifakas, Aye-aye, all species	<i>Indridae</i> , all members of the genera <i>Indri</i> , <i>Ataki</i> , <i>Propithecus</i> .	Madagascar and Comoro Islands.
Aye-aye	<i>Daubentonia madagascariensis</i>	Madagascar.
Spider monkey	<i>Ateles geoffroyi frontatus</i>	Guatemala.
Spider monkey	<i>Ateles geoffroyi geoffroyi</i>	Guatemala.
Spider monkey	<i>Ateles geoffroyi ornatus</i>	Costa Rica.
Spider monkey	<i>Ateles geoffroyi panamensis</i>	Costa Rica.
Red-backed squirrel monkey	<i>Saimiri oerstedii</i> (<i>Saimiri sciurus oerstedii</i>)	Costa Rica.
Woolly spider monkey	<i>Brachyteles arachnoides</i>	Brazil.
White-nosed saki	<i>Chiropotes albinasus</i>	Brazil.
Uakari, all species	<i>Cacajao</i> spp.	Peru, Colombia, Venezuela, Brazil and Ecuador.
Goeldi's marmoset	<i>Callimico goeldi</i>	Brazil.
Golden-rumped, golden-headed tamarin golden lion marmoset	<i>Leontideus</i> spp.	Brazil.
Lion-tailed macaque	<i>Macaca silenus</i>	India.
Tana River mangabey	<i>Cercocebus g. galeritus</i>	Kenya.
Dugong	<i>Pygathrix nematus</i>	Indochina.
Pag Island langur	<i>Siamia concolor</i>	Indochina.
Red colobus	<i>Colobus tirkii</i>	Kenya.
Zanzibar red colobus	<i>Colobus badius rufonigratus</i>	Zanzibar (Tanzania).
Kloss' gibbon	<i>Hylodactylus klossi</i>	Indochina.
Pileated gibbon	<i>Hylodactylus pileatus</i>	Malaysia.
Orangutan	<i>Pongo pygmaeus</i>	Indonesia, Malaysia, Brunei.
Gorilla	<i>Gorilla gorilla</i>	Central and western Africa.
Brazilian three-toed sloth	<i>Bradypus torquatus</i>	Brazil.
Pink fairy armadillo	<i>Chlamyphorus truncatus</i>	Argentina.
Volcano rabbit	<i>Romerolagus diazi</i>	Mexico.
Mexican prairie dog	<i>Cynomys merriami</i>	Mexico.
Thin-spined porcupine	<i>Chaetomys subspinosus</i>	Brazil.
Sperm whale	<i>Physeter catodon</i>	Worldwide.
Baleen whales, all species	<i>Mysticete</i> , all members of the genera <i>Balaena</i> , <i>Megaptera</i> , <i>Eubalaena</i> , <i>Eschrichtius</i> .	Worldwide.
Northern kit fox	<i>Vulpes velox hesperis</i>	Canada.
Asiatic wild dog	<i>Cuon alpinus</i>	Russia, Pakistan, India (Central and Southeast Asia).
Mexican grizzly bear	<i>Ursus arctos nelsoni</i>	Mexico.
Formosan yellow-throated marten	<i>Martes flavigula chrysospila</i>	Formosa.
Black-footed ferret	<i>Mustela nigripes</i>	United States, Canada.
Cameroun clawless otter	<i>Paronyx microdon</i>	Cameroon.
La Plata otter	<i>Lutra platensis</i>	Uruguay, Argentina, Bolivia.
Giant otter	<i>Pteronura brasiliensis</i>	Amazon Basin.
Barbary hyena	<i>Hyena hyaena barbara</i>	Morocco.
Brown hyena	<i>Hyena brunnea</i>	Southern Africa.
Asiatic cheetah	<i>Acinonyx jubatus venaticus</i>	Russia, Afghanistan, Iran, Saudi Arabia (Formerly India and Pakistan).
Spanish lynx	<i>Felis pardina</i>	Spain.
Barbary serval	<i>Felis tectal constantina</i>	Algeria.
Formosan clouded leopard	<i>Neofelis nebulosa brachyurus</i>	Formosa.
Asiatic lion	<i>Panthera leo persica</i>	India.
Sinai leopard	<i>Panthera pardus jarvisi</i>	Sinai, Saudi Arabia.
Barbary leopard	<i>Panthera pardus panthera</i>	Morocco, Algeria, Tunisia.
Anatolian leopard	<i>Panthera pardus tulliana</i>	Lebanon, Israel, Jordan, Turkey, Syria.
Bali tiger	<i>Panthera tigris balica</i>	Bali.
Javan tiger	<i>Panthera tigris sondaica</i>	Indonesia.
Caspian tiger	<i>Panthera tigris tigris</i>	Russia, Afghanistan, Iran.
Sumatran tiger	<i>Panthera tigris sumatrae</i>	Indonesia.
Mediterranean monk seal	<i>Monachus monachus</i>	Mediterranean.
West Indian (Florida) manatee	<i>Trichechus manatus</i>	United States, Costa Rica, Guatemala, Panama, Brazil, Venezuela.
Amazonian manatee	<i>Trichechus inunguis</i>	Peru, Amazon.
Asian wild ass	<i>Equus hemionus</i>	Pakistan, Iran, India, China, Afghanistan, Central Asia.
African wild ass	<i>Equus asinus</i>	Ethiopia, Somalia, Sudan.
Mountain tapir	<i>Tapirus pinchaque</i>	Colombia, Ecuador.
Brazilian tapir	<i>Tapirus terrestris terrestris</i>	Venezuela, Argentina, Brazil.
Central American tapir	<i>Tapirus bairdii</i>	Guatemala, Costa Rica, Southern Mexico to Colombia and Ecuador.
Sumatran rhinoceros	<i>Dicerorhinus sumatrensis</i>	Southeast Asia—East Pakistan to Vietnam to Indonesia.
Javan rhinoceros	<i>Rhinoceros sondaicus</i>	Indonesia, Burma, Thailand.
Northern white rhinoceros	<i>Ceratotherium simum cottoni</i>	Congo, Uganda, Sudan.
Pygmy hog	<i>Sus salicatus</i>	India, Nepal.
Victoria	<i>Vicugna vicugna</i>	Peru, Bolivia.
Swamp deer	<i>Cervus duvauceli</i>	India, Nepal.
Kashmir stag, hangul	<i>Cervus elaphus hanglu</i>	Kashmir.
Barbary stag	<i>Cervus elaphus barbarus</i>	Morocco, Tunisia, Algeria.
McNeill's deer	<i>Cervus elaphus macneilli</i>	China, Tibet.
Shou	<i>Cervus elaphus wallichi</i>	Tibet, Bhutan.

Amphibians and reptiles

Common name	Scientific name	Where found
Israel painted frog	<i>Discophrys nigricanter</i>	Israel.
Stephen Island frog	<i>Eleutherodactylus hamiltoni</i>	New Zealand.
River terrapin, Tuntong	<i>Balogur baski</i>	Burma, India, Indonesia, Malaysia, Pakistan.
Galapagos tortoise	<i>Testudo elephantopus</i>	Galapagos (Ecuador).
Madagascar radiated tortoise	<i>Testudo radiata</i>	Madagascar.
Hawksbill turtle	<i>Eretmochelys imbricata</i>	Tropical seas.
Leatherback turtle	<i>Dermochelys coriacea</i>	Tropical and temperate seas.
South American river turtle	<i>Podocnemis expansa</i>	Orinoco and Amazon River Basin.
South American river turtle	<i>Podocnemis unifilis</i>	Orinoco and Amazon River Basin.
Short-necked or swamp tortoise	<i>Peledemys umbrina</i>	Australia.
Yacare	<i>Caiman yacare</i>	Bolivia, Argentina, Peru, Brazil.
Orinoco crocodile	<i>Crocodylus intermedius</i>	Orinoco River Drainage.
Cuban crocodile	<i>Crocodylus rhombifer</i>	Cuba.
Morlet's crocodile	<i>Crocodylus morletii</i>	Mexico, British Honduras, Guatemala.
Nile crocodile	<i>Crocodylus niloticus</i>	Africa.
Gavial	<i>Gavialis gangeticus</i>	Pakistan.
Round Island day gecko	<i>Phelsuma guentheri</i>	Mauritius.
Day gecko	<i>Phelsuma newtoni</i>	Mauritius.
Barrington land lizard	<i>Conolophus pallidus</i>	Galapagos.
Tuatara	<i>Sphenodon punctatus</i>	New Zealand.
Jamaica boa	<i>Epicrates subflavus</i>	Jamaica.
Anegada ground iguana	<i>Cyclura pinguis</i>	Anegada Island.

Fish

Ala bulik	<i>Salmo platycephalus</i>	Turkey.
Cleek	<i>Acanthorhynchus handirachi</i>	Turkey.
Miyako tanago	<i>Tanaka tanago</i>	Japan.
Ayuhodoki	<i>Hymenophys curia</i>	Japan.
Mexican blindcat	<i>Prietella phreatophila</i>	Mexico.
Nekogigi	<i>Coreobagrus ichthyocara</i>	Japan.
Giant catfish	<i>Pangasianodon gigas</i>	Thailand.
Catfish	<i>Pangasius sanitwongsei</i>	Thailand.

Mollusk

Mollusk	<i>Popustyla pulcherrima</i>	Manus Island (Admiralty Island).
---------	------------------------------	----------------------------------

APPENDIX B

DESIGNATED PORTS AND EXCEPTIONS THERETO

1. *Designated ports.* The following ports are designated as ports of entry for all fish and wildlife, except shellfish and fishery products imported for commercial purposes which may enter through any Customs district or port: New York, New York; Miami, Florida; Chicago, Illinois; San Francisco, California; Los Angeles, California.

2. *Specific exceptions.* (a) Tampa, Florida, is a port of entry for fish.

(b) In any case of emergency diversion of a shipment of live fish or live wildlife to a place in the United States other than a designated port, the Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C) or his designee may make appropriate arrangements for the immediate clearance for importation of such fish or wildlife, where it appears that delay in clearance would endanger or impair the health of such fish or wildlife. In any instance where the Regional Director of the Bureau of Sport Fisheries and Wildlife or his designee can not be reached, any customs officer is authorized to clear and release the fish or wildlife upon receipt, where applicable, of a properly executed Declaration for the Importation of Fish or Wildlife (Form 3-177).

(c) (1) Except for any species or subspecies which appears on the Endangered Species List, any fish or wildlife whose country of origin is Canada, or which was previously exported from the United States into Canada, may enter the United States through any of the ports designated in section 1 of Appendix B or through any of the following customs ports of entry:

- (i) State of Alaska—Tok Junction.

¹ As a result of hearings on ports of entry, the Port of Honolulu, Hawaii, was deleted, and the Port of New Orleans, Louisiana, will be added if approval by the Secretary of the Treasury is secured as required by law.

- (ii) State of Washington—Blaine, Sumas, Oroville.

- (iii) State of Idaho—Eastport.

- (iv) State of Montana—Sweetgrass, Raymond.

- (v) State of North Dakota—Portal, Pembina, Dunseith.

- (vi) State of Minnesota—Noyes, International Falls, Grand Portage.

- (vii) State of Michigan—Sault Sainte Marie, Detroit, Port Huron.

- (viii) State of Ohio—Cleveland.

- (ix) State of New York—Buffalo-Niagara Falls, Ogdensburg, Rouses Point.

- (x) State of Vermont—Highgate Springs, Derby Line.

- (xi) State of Maine—Houlton, Calais.

(2) Except for any species or subspecies which appears on the Endangered Species List, any fish or wildlife whose country of origin is Mexico, or which was previously exported from the United States into Mexico, may enter the United States through any of the ports designated in section 1 of Appendix B or through any of the following customs ports of entry:

- (i) State of California—Calexico, San Diego-San Ysidro.

- (ii) State of Arizona—Nogales, San Luis.

- (iii) State of Texas—El Paso, Laredo, Brownsville.

(3) Prior to any entry pursuant to (1) or (2) above, the importer or his agent must submit a signed and dated statement to the customs officer at the port of entry showing his name and address, the number and a description of the items being imported, and containing the following certification: "Subject to the criminal penalties of 18 U.S.C. 1001, I hereby certify that the fish or wildlife named hereon does not appear on the Endangered Species List and originated in (Canada) (Mexico) or were previously exported from the United States into (Canada) (Mexico)."

(c) (1) Except for any species or subspecies which appears on the Endangered

Species List, fish or wildlife which are entered into Alaska, Hawaii, Puerto Rico, Guam, American Samoa, or the Virgin Islands, and which are not to be forwarded or transshipped within the United States may be imported through any of the ports designated in section 1 of Appendix B or at the following ports:

- (i) Alaska—Juneau, Anchorage, Fairbanks.

- (ii) Hawaii—Honolulu.

- (iii) Puerto Rico—San Juan.

- (iv) Guam—Honolulu, Hawaii.

- (v) American Samoa—Honolulu, Hawaii.

- (v) American Samoa—Honolulu, Hawaii, Rico.

(2) Prior to any such entry, the importer or his agent must submit a signed and dated statement to the customs officer at the port of entry showing his name and address, the numbers and descriptions of the items being imported, and containing the following certification: "Subject to the criminal penalties of 18 U.S.C. 1001, I hereby certify that the fish or wildlife named hereon does not appear on the Endangered Species List and are not to be forwarded or transshipped within the United States."

(d) (1) Except for any species or subspecies which appears on the Endangered Species List, fish or wildlife imported from Mexico or Canada by an individual as game or a game trophy lawfully taken in Mexico or Canada, may enter the United States at any port of entry.

(2) Such entry must be accompanied by Customs Form 3315, Declaration for Free Entry of Game Animals or Birds Killed by United States Residents.

(e) Except for any species or subspecies which appears on the Endangered Species List, fish or wildlife products which are transported accompanied or unaccompanied as personal effects or as part of household effects, including game trophies transported as part of household effects but excluding any other game or game trophies, may enter the United States at any customs port of entry.

(f) Any person who has obtained the prior approval of the Secretary may import scientific specimens, except specimens of species or subspecies which appear on the Endangered Species List, at any customs port of entry. Approval may be obtained by applying to the Director, Bureau of Sport Fisheries and Wildlife, United States Department of the Interior, Washington, D.C. 20240. The application shall contain the following information:

(i) Name, address, and institutional affiliations of the applicant;

(ii) General description of types of specimens normally imported or received, along with documentation of such importation or receipt;

(iii) Complete description of purposes or uses of such scientific specimens;

(iv) Any other information deemed necessary by the Director;

(v) A certification in the following language: "I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275), and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001."

(vi) Signature of the applicant;

(g) Nothing in this subsection shall be construed as allowing the transportation of migratory birds and game mammals or fish to and from Canada or Mexico in any way contrary to the provisions of Parts 10, 13, and 15 of this chapter.

3. *Exception by permit.* (a) Any person may apply for a permit to import fish or wildlife at any non-designated port. The application must be dated and in writing, and should be submitted to the Regional Director of the Bureau of Sport Fisheries and Wildlife (see Appendix C) at least 10 days prior to entry. It shall contain the following:

(i) The name and address of the applicant;
(ii) Designation of the item or items to be entered, including species or subspecies, number, method of shipment, and description, such as "tanned hides;"

(iii) Purpose of the importation;

(iv) Intended port of entry;

(v) A statement of the reasons why importation should be allowed at the requested port of entry rather than at a designated port, including appropriate documentation or affidavits;

(vi) If the permit is being requested for a series of importations over a period of time, include a detailed narrative statement of the circumstances, along with documentary evidence showing a previous pattern of such importation for at least one year, or other documentary evidence as required by the circumstances;

(vii) A certification in the following language: "I hereby certify that the foregoing information is complete and accurate, to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining an exemption from the requirements of the Endangered Species Conservation Act of 1969 (83 Stat. 275) and regulations promulgated thereunder, and that any false statement hereon may be subject to the criminal penalties of 18 U.S.C. 1001."

(viii) Signature of the applicant.

(b) The issuance of permits under this section will be limited to those applicants

who can show, to the satisfaction of the Regional Director of the Bureau of Sport Fisheries and Wildlife, sufficient economic hardship or other reasonable justification for entry at a non-designated port. Permits may cover a single importation, a series of related importations, or importation over a specified period of time.

(c) Any permit issued under this section may specify any conditions deemed necessary by the Regional Director of the Bureau of Sport Fisheries and Wildlife, including the requirement that the applicant pay any reasonable costs incurred by the Department in inspecting the shipment(s) at a non-designated port.

APPENDIX C

REGIONAL DIRECTORS

Following are the addresses of the various Regional Directors of the Bureau of Sport Fisheries and Wildlife, Department of the Interior:

Region 1: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, 730 NE, Pacific Street, P.O. Box 3737, Portland, Oregon 97208. Telephone: 503 234-4050.

Includes: Alaska, California, Hawaii, Idaho, Montana, Nevada, Oregon, Washington.

Region 2: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Federal Building, P.O. Box 1308, 517 Gold Avenue SW., Albuquerque, New Mexico 87103. Telephone: 505 843-2321.

Includes: Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, Wyoming.

Region 3: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Telephone: 612 725-3500.

Includes: Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, Ohio, North & South Dakota, Wisconsin.

Region 4: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, Peachtree-Seventh Building, Atlanta, Georgia 30323. Telephone: 404 526-5100.

Includes: Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North & South Carolina, Tennessee, Virginia, District of Columbia.

Region 5: Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Department of the Interior, U.S. Post Office and Courthouse, Boston, Massachusetts 02109. Telephone: 617 223-2961.

Includes: Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia.

[F.R. Doc. 70-6666; June 1, 1970; 8:45 a.m.]